REMARKS

Applicant hereby responds to the Office Action of May 2, 2007, in the above-referenced patent application. Applicant thanks the Examiner for carefully considering the application, and for the courtesy extended during the telephone interview on September 17, 2007.

Interview Summary

In the telephone interview with Examiner Paul Callahan attended by Michael Zarrabian (39,886) and Feng Ma (58,192), an agreement has been reached as the Examiner has preliminarily agreed that the proposed amendment to claim 1 (as shown in the listing of claims of this Response) is sufficient to overcome the rejections based on U.S. Patent No. 5,809,139 ("Girod"). More specifically, as Applicant has argued, the watermarking as taught by Girod is completely different from the claimed "copy protection." However, the Examiner invited Applicant for a further interview scheduled October 4, 2007 to allow the Examiner time to more thoroughly consider all the rejections.

Status of Claims

Before this Amendment, claims 1, 3-8, and 10-14 were currently pending. Claims 15-43 were withdrawn from consideration, and have been canceled by way of this reply without prejudice or disclaimer. New claims 44-47 have been added. Thus, claims 1, 3-8, 10-14, and 44-47 are currently pending. Claims 1, 7, 8, and 14 are independent.

Claims 1, 3-8, and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,809,139 ("Girod") in view of a conference paper by Hartung *et al.* presented in a conference held in October, 1997 ("Hartung").

Claim Amendments

By way of this reply, independent claims 1, 7, 8, and 14 have been amended for clarification purposes. Claims 1, 3-8, and 10-14 have been additionally amended to correct minor informalities. New claims 44-47 have been added. No new matter has been added by way of these amendments as support for these amendments may be found, for example, on page 7, lines 4-8 of the present application as filed.

Rejections under 35 U.S.C. § 103

Rejection of claims 1, 3-8, and 10-14 as being unpatentable over Girod in view of Hartung is respectfully traversed because for at least the following reasons, Girod and Hartung, whether considered separately or in combination, fail to show or suggest the claimed invention. In addition, it is unlikely that a combination of Girod and Hartung qualifies as prior art.

The claimed invention is directed to copy *protection* of digital data. Independent claims 1, 7, 8, and 14 each require, in part, "converting the encoded signal into a *copy protected signal* using a copy *protection* function that utilizes a copy protection data signal." Amended independent claims 1, 7, 8, and 14 further clarify that the "copy protected signal" is to "prevent using the digital audio-visual signal without access to the copy protection data signal."

By contrast, Girod and Hartung, whether considered separately or in combination, fail to show or suggest at least the above-mentioned limitations.

The rejections as set forth in the instant Office Action have been based on equating the watermarked audio-visual signal as taught by Girod to the claimed "copy protected signal," and equating the watermark as taught by Girod to the claimed "copy protection data signal." Applicant respectfully disagrees on the Office Action's interpretation of Girod.

As well known in the art, watermarks, although may be used to *trace* a copy in various applications, are *not* used to "*protect*" signals from being copied as claimed. One such commonly known application of watermarks is in college official transcripts. A copy of a watermarked official transcript has watermarks show up together with the useful information on the transcript. Although the appearance of the watermarks is an indication that the transcript is a copy, none of the useful information on the transcript is lost. Thus, the watermarked transcript is *not* copy protected. Rather, watermarks provide information *in addition to* all the usable information in the official transcript. Thus, watermarks are not equivalent to the "copy protection data signal" as claimed.

By contrast, "copy protection" as claimed, and as described in, for example, the Background of the present application, *prevents* usable information being copied or viewed. Thus, Girod, which is directed to watermarks, fails to show or suggest at least the above-mentioned claimed limitations.

Hartung, as Girod discussed above, is also silent with respect to the claimed "*converting* the encoded signal into a *copy protected signal* using a copy *protection* function that utilizes a copy protection data signal," and fails to supply that which Girod

lacks. This is also evidenced by the fact that Hartung was relied upon by the instant Office Action merely to supply a receiver acquisition sequence. Indeed, Hartung is directed to watermarking, *not* "copy protection" as claimed.

Applicant further respectfully submits that the instant Office Action appears to have used the conference date (October, 1997) of Hartung. This is improper as the paper itself as referenced to in the instant Office Action was published on November 30, 1997. The Examiner has not met the burden of showing that the features as supplied by Hartung, relied upon in the instant Office Action, were indeed presented at the conference. Rather, the correct date to use is the publication date of Hartung, which is November 30, 1997, and is only thirty nine (39) days earlier than the priority date of the claimed invention. Thus, Hartung does not qualify as prior art under 35 U.S.C. 102(b), and appears to be relied upon by the instant Office Action as a possible evidence that the supplied features were "known or used by others" under 35 U.S.C. 102(a). However, Applicant respectfully submits that, *assuming arguendo* that Girod and Hartung can be combined, it is highly unlikely that such an assumed combination would have possibly become available to those skilled in the art within 39 days. Thus, it is unlikely that Girod and Hartung, even if combinable, would qualify as prior art.

In view of the above, Girod and Hartung, whether considered separately or in combination, fail to show or suggest the claimed invention as recited in independent claims 1, 7, 8, and 14 of the present application. In addition, it is unlikely that a combination of Girod and Hartung qualifies as prior art. Thus, independent claims 1, 7, 8, and 14 of the present application are patentable over Girod and Hartung for at least the

reasons set forth above. Dependent claims 3-6 and 10-13 are allowable for at least the same reasons. Accordingly, withdrawal of the rejections is respectfully requested.

New Claims 44-47

Newly added claims 44-47 depend from independent claims 1, 7, 8, and 14, respectively, and thus should be also allowable for at least the same reasons discussed above with respect to the independent claims. Accordingly, entry and favorable consideration of claims 44-47 are respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant believes that the claims are in condition for allowance. Re-examination, reconsideration and allowance of the claims are respectfully requested. If the Examiner believes that a telephone interview will help further the prosecution of this case, Applicant respectfully requests that the undersigned attorney be contacted at the listed telephone number.

Please direct all correspondence to **Myers, Dawes Andras & Sherman, LLP**, 19900 MacArthur Blvd., 11th Floor, Irvine, California 92612.

Respectfully submitted,

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